IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 21381 of 2004

Between:

T. Narayana Reddy, S/o Chinna Narapa Reddy,
R/o Komireddipalli, Dharmavaram Mandal,
Anantapur District.

..... PETITIONER

AND

1. The Collector and District Magistrate, Anantapur.
2. The Principal Secretary for Home, Secretariat, Hyderabad.
3. The Superintendent, Central Prison, Cherlapalli, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Article 226 of Constitution of India directing the respondents to produce Tadimari Sudhakar Reddy, S/o Chenna Reddy now detained in Central Prison, Cherlapalli before this Hon'ble Court and may be ordered to release forthwith declaring that his detention is illegal and void.

Counsel for the Petitioner: MR.T.PRADYUMNA KUMAR REDDY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court at the admission stage made the following ORDER:

ORDER: (per the Hon'ble Sri Justice Bilal Nazki):

This writ petition is filed challenging the order of detention passed by the District Collector & Magistrate, Anantapur on 15.09.2004 ordering detention of the detenue.

Counter has been filed and we have heard learned counsel for the parties.

One of the grounds as mentioned in Ground No.7 states:

> "**Cr.No.76/2004-u/s 5 of E.S. Act of Dharmavaram Town P.S**: - On 25.06.2004 at about 2.30 P.M. near Electrical Sub-Station, Tharaka Ramapuram, Dharmavaram you along with other person were arrested and seized country made bombs from your possession.
>
> It is thus that you are a habitual criminal and dangerous and desperate person and you are so hardened and became incorrigible that the ordinary provisions of penal code will not have deterrent effect over your violent acts and you are likely to repeat such violent acts in future and as such you have to be kept under control."

Learned counsel for the petitioner submits that detention cannot be sustained in view of the law laid down by this Court earlier to the effect that "Goonda" would mean a person who habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII or Chapter XXI of the Indian Penal Code. He refers to the definition of "Goonda" under Section 2(g) of the Andhra Pradesh Prevention of Dangerous activities of Boot Leggers, Dacoits, Drug-Offenders, Goondas, Immoral traffic offenders and Land grabbers Act,

1986 (for short 'the Act'). Learned counsel submits that since the detenue has been accused of having committed an offence under Section 5 of the Explosive Substances Act, 1908, therefore, ground No.7 becomes irrelevant, as the grounds are not separable in terms of the Act, the detention becomes illegal.

In view of this submission the order of detention cannot sustain.

The writ petition is accordingly allowed. Impugned order of detention is quashed and the respondents are directed to release the detenue forthwith, if not required in any other case.

_____

Bilal Nazki, J

_____

Ch.S.R.K. Prasad, J

Date: 07.12.2004

va

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the seventh day of December, Two Thousand and Four.

To

1. The Collector and District Magistrate, Anantapur.
2. The Principal Secretary for Home, Secretariat, Hyderabad.
3. The Superintendent, Central Prison, Cherlapalli, Ranga Reddy District.
4. Two CCs to the Advocate General, High Court of A.P. Buildings, Hyderabad (OUT)
5. Two CD Copies